

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application: **Dietz et al.**

Serial No.: **10/015,235**

Filed: **December 13, 2001**

For: **Streaming Internet Media Record
and Playback Software Program**

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Group Art Unit: **2173**

Examiner: **Pillai, Namitha**

Attorney Docket No.: **AUS920010924US1**

**Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

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PATENT TRADEMARK
OFFICE CUSTOMER

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
OFFICE ACTION NOT RECEIVED**

I hereby petition to withdraw the holding of abandonment in this case, on the basis that the Office Action forming the basis of the abandonment was not received. I hereby state: (a) the Office Action indicated on the Notice of Abandonment, as mailed on September 5, 2006, was not received; and (b) a search of the file jacket and the docket records in my office indicates that this Office Action was not received.

I attach a copy of the docket record where the non-received Office Action would have been entered had it been received and docketed. As additional evidence of non-receipt of the Office Action, I also attach a statement from the Firm's legal assistant, Monica Gamez, who would have docketed the Office Action had it been received.

Also attached is a statement from the Firm's paralegal, Dell Whitton, who, upon receipt of a Notice of Abandonment, investigates the cause of the abandonment. Upon receipt of the Notice of Abandonment dated April 6, 2007, Ms. Whitton was made aware of the non-receipt of Office Action dated September 5, 2006, printed a copy of the Office Action from the USPTO Patent Application Information Retrieval System (PAIRS) and forwarded it to Monica Gamez to docket the Office Action.

In consideration of these submissions, it is respectfully requested that the holding of abandonment be withdrawn and the attached Response to Office Action be entered. It is respectfully urged that subject application is patentable over the cited references and is now in condition for allowance.

No fees are believed to be necessary. If, however, any fees are required, I authorize the Commissioner to charge these fees which may be required to IBM Corporation Deposit Account No. 50-0563.

Respectfully submitted,

/Wayne P. Bailey/

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